

COMMISSIONERS APPROVAL

CHILCOTT *ge*

LUND

THOMPSON *AT*

TAYLOR (Clerk & Recorder)

Date.....December 15, 2005

Members Present.....Commissioner Greg Chilcott,  
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

Commissioner Lund attended a Fair Commission meeting during the morning hours.

Commissioner Chilcott met with the Internal Auditor and the Certified Public Accountant for the county in order to review a draft of the Ravalli County financials.

The Board met to continue their December 9<sup>th</sup> meeting in regard to the language for the Mental Health Contract. Present at this meeting was Civil Counsel James McCubbin, Juvenile Detention Supervisor Lori Roderick, Kim Miller of Riverfront Counseling, Detention Lt. Cathy Powell, Sheriff Chris Hoffman, Under Sheriff Kevin McConnell, Administrative Director Skip Rosenthal, County Attorney George Corn and Deputy County Attorney Karen Mahar.

Kim and Skip presented a unit cost calculation worksheet for the contract period of 1/1/06 to 6/30/06. Estimations were made for this 6-month period for the services which included the assessments, mental health commitments, on-call availability, treatment plants, mental health education and group counseling for the jail. The estimation for this six month period was made at \$33,465.00.

Karen stated they are in the middle of another 'flurry of mental commitments' at this time. They have had 26 mental commitments thus far for the calendar year. Karen stated Riverfront Counseling is providing some services that are not listed and she feels the county is obtaining more services for the dollar.

James presented an amended contract draft. Changes include the 24-hour availability for 'professional' services. The definition of professional is defined by statute and the person is certified by the State. The substantive provision is the dispatch of a professional person within 2-hours. Kim stated the 2-hour response is reasonable unless a call was to come at 0300 hours and the person can be kept separate and confined until 0800 hours. She stated the Riverfront Counseling Attorney is reviewing this. Karen

noted the statute indicates Law Enforcement must contact a professional. James stated it is imperative that the county follow the statute.

Skip suggested they use the 2-hour response language and other response to be done as mutually agreeable. James stated a phone call could be defined as a 2-hour response time. Karen stated many times the hospital staff wants to have a disposition of the person as soon as possible. Sheriff Hoffman stated there is a cost involved in the hospital holding a person, and it involves manpower also. Karen also noted the hospital needs to medically clear the person before the professional person evaluates them.

James addressed changes under the assessments and treatment plans. He noted it clarifies the referrals by a Juvenile Detention Facility. The 24-hour availability was deleted under services requests. Under mental health assessments, the new language now allows any sworn law enforcement officer. He stated the need to define the Detention Center and Juvenile Detention Center. Karen stated they need to have a designated person which helps her in her follow-up work. James suggested they list the titles, rather than the individuals.

Sheriff Hoffman stated inside the jail it should be the supervisory staff or Cathy Powell. Cathy stated the control officer should also be included in this. Under juvenile it should be the Director or the Assistant Director. James also noted these same designations should also apply to the treatment plans. Skip suggested they group the request for assessment and treatment plans under one.

Kevin asked when an officer would need to be involved in a treatment plan. Skip stated that is correct; therefore they should not be grouped together. James stated it does not hurt to specify how the treatment plan is triggered. Kim stated the professional draws the mental health treatment plan up, but the detention center personnel follow the plan. James suggested they review the scope of services prior to making any designations of those who are authorized to request services. George stated they do not always need an assessment. Kim stated the person could be involved in group sessions and the case worker may not need to provide a full assessment.

James suggested they add language under Mental Health Treatment to reflect the treatment would allow the mental health assessment or assessment under group counseling.

Sheriff Hoffman stated they can identify those that are frequent detainees, but stated it is important to be able to identify those that are new to the system and in need of a mental health assessment.

Under calls for service; Karen stated they should note that the calls for service may come from those designated or through 9-1-1. James also added language that allows a roster of professional persons to include the locations of Detention and Juvenile Detention.

Under the independent contractor, James added in the independent contractor language. Under Agency agreement representation it was agreed to list this as Skip Rosenthal. Skip would simply be a point of contact and all parties meeting here today will be involved in any substantive changes with Commissioners approval.

Kim Miller will be listed as the Riverfront Counseling and Support Center.

Payment was also discussed. Kim stated the estimation figure (\$33,465.00) could be divided up by six months and paid on a monthly basis. A breakdown of where these dollars could be taken from was then discussed. Karen suggested they take a percentage from each department for the services i.e., Clerk of Courts would pay for their portion of the commitments. Karen stated the current mental health budget of \$4,000.00 should be put towards the assessments. Sheriff Hoffman suggested the entire budget lines (from various departments, including the Sheriff's Office) put their money together making it come out of one pot. He stated he does not have a specific line for mental health and he does not want to leave his line item 'dry' for the medical care of his prisoners. After calculations were made, it was determined the Sheriff would need to fund approximately \$15,000.00 of this \$33,465.00.

Commissioner Lund made a motion to approve of the Mental Health Contract with Western Montana Mental Health Center (Riverfront Counseling & Support Center) contract with the changes noted at this meeting in the amount of \$33,465.00 until the end of Fiscal Year 2006. Commissioner Thompson seconded the motion and all voted "aye".

In other business the Board met for a Request for Commission Action on the Corvallis Tract, Block 1, Portion of Lot 30D, AP Variance Request. Present at this meeting was Civil Counsel James McCubbin, Planner Renee Van Hoven, Planner Ben Howell and Pat and Merl Baker who represented the Applicant William Dale Phillips.

Commissioner Lund read the following statement:

Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

Ben presented a power point presentation and entered the Request for Commission Action as follows:



## REQUEST FOR COMMISSION

### ACTION

OG-05-12-1204

Site Visit: December 13, 2005 @ 3:30 p.m.  
Meeting: December 15, 2005 @ 2:00 p.m.  
Request: To act on the Corvallis Tract, Block 1, Portion of Lot 30D, AP  
Variance Request.

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#### I. ACTION REQUESTED

This is a request from William Dale Phillips, represented by Pat and Merl Baker, to approve the Corvallis Tract, Block 1, Portion of Lot 30D, AP Variance Request.

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#### II. BACKGROUND

The applicant is requesting a variance from improving the entire length of All View Lane, the private road accessing this property, to meet county standards. The variance request is for the potential future subdivision of Lot 30D, Block 1, Corvallis Tract. The future subdivision proposal is anticipated to create two lots, as shown on the reduced plat included in the application packet. The property is located approximately four miles north of Hamilton off All View Lane. (Map 1)



**Map 1: Location Map**

(Source Data: Ravalli County Planning Department)

From Bass Lane, All View Lane is a 15 to 20-foot wide gravel road within a 60-foot wide easement for approximately 600 feet to the north (to the intersection of All View Lane and Wise's Way). From this point, All View Lane is a two track road 10 to 12 feet wide to the subject property within a 30-foot wide easement. The applicant proposes to improve All View Lane from the intersection of Wise's Way to the new lot to be a 20-foot wide gravel road within a 30-foot wide easement.

*Staff recommended denial of the variance request.*

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### **III. PLANNING BOARD RECOMMENDATION**

The Ravalli County Planning Board conducted a public hearing on this variance request on November 16, 2005, and took the following action:

The Board chose not to review the variance criteria beyond their discussion and the analysis in the staff report. The Board made a motion to **approve** the variance request, with the conditions that road plans for the proposed extension of All View Lane are submitted with the subdivision application for a minimum 20-foot wide gravel road within a 30-foot wide public road and utility easement and that the neighbors work on a road maintenance agreement to improve the entire length of All View Lane. **The Board voted 7-0 to approve this motion.**

*Comments from the meeting are contained in the record.*

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#### IV. INFORMATION RECEIVED AT PLANNING BOARD HEARING

Staff received the following information at the public hearing conducted by the Planning Board on November 16, 2005:

- Letter from Glenn O. Wise regarding Mr. Phillips variance request.
- Letter from the Corvallis Rural Fire District.
- A copy of the amended plat (AP # 688) for Corvallis Tract, Block 1, Portion of Lot 31 Major Subdivision, showing a 60-foot wide easement on All View Lane from Bass Lane to Wises Way.

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#### V. PLANNING BOARD'S RECOMMENDED MOTION

(Changes to staff's recommended motion is in underline/~~strikeout~~.)

That the variance request from Sections 5-4-5(a)&(e) of the Ravalli County Subdivision Regulations, which require All View Lane, an existing substandard private road, to meet County standards for a minor local road as outlined in Table 5-4-2, be ~~denied~~ approved, ~~based on the findings of fact and conclusions of law in the staff report~~ with the conditions that road plans for the proposed extension of All View Lane are submitted with the subdivision application for a minimum 20-foot wide gravel road within a 30-foot wide public road and utility easement and that the neighbors work on a road maintenance agreement to improve the entire length of All View Lane.

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#### VI. PLANNING BOARD'S RECOMMENDED CONDITIONS

1. Road plans for the proposed extension of All View Lane shall be submitted with the subdivision application for a minimum 20-foot wide gravel road within a 30-foot wide public road and utility easement.
2. The neighbors shall work on a road maintenance agreement to improve the entire length of All View Lane.

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**REMAINING ISSUES:** None.

**FISCAL IMPACT:** No extraordinary fiscal impacts noted.

**ATTACHMENTS:** Application package  
Staff Report with attachments  
Planning Board meeting minutes for the November 16, 2005 public hearing  
Additional comment letters provided to Planning Board

**STAFF:** Benjamin H. Howell

**DATE:** December 6, 2005

The Chairman called for public comment. Pat Baker stated Bill would like the road so he has 'easier access' to his own property. He does not want to sell the property now, but might want to in the future. Merl indicated there was some controversy on the dedicated road. He stated the applicant simply wants to add 260' of dedicated road into his own property.

No persons opposed. Public Comment was closed. Board deliberation then took place.

Commissioner Lund stated Corvallis Fire Department wrote a letter stating they were in favor of this subdivision. Ben stated the Planning Office never received a letter from the Fire Department. In the past, the Fire Department has always requested a 60' easement and paving. Ben stated they received that letter at the Planning Board meeting. Ben stated the date of application was June 2005. Commissioner Lund commented this subdivision is under the old road regulations. Ben stated yes. Commissioner Lund asked if the variance was requested after the AASTHO standards were approved, would that make a difference. Renee stated both regulations require a 60' easement and paving. The difference would be in the surface width. All View Lane serves more than 2-lots. James stated the difference would be in the paving width of the road.

Pat stated they can not take any property from the neighboring backyards because it would impact the septic in the back yard. There is only a 30' easement. Pat stated there is a utility pedestal just 30' from the fence line. She stated they are only going to service Mr. Phillips property and the extra lot. Commissioner Lund addressed the availability of a 60' easement for a portion of the road and the remaining 30' of available easement. Merl stated the power lines are also buried there.

Commissioner Thompson stated this is a situation where they need to follow the regulations, but due to the number of lots that are serviced, and lack of easements, it is difficult to obtain the easement.

Commissioner Chilcott asked if they were to grant the request for a variance, what would prohibit the applicant from splitting this into three lots. Pat stated Mr. Phillips can not split this land any further because his house is in the middle of the lot.

Commissioner Chilcott asked about the lots to the north. Commissioner Thompson stated those lots are addressed from Joseph Drive.

Commissioner Lund asked if the neighbors were willing to do a special improvement district. Pat stated she discussed this and they have all agreed on a 1/16<sup>th</sup> cost up to where Mr. Phillips property starts. This included Mr. Wise who has developed this area. Commissioner Chilcott stated he would like to see a 60' easement. Pat reiterated that a 60' easement will not work as there is not enough room. Commissioner Lund stated nothing attaches to this property so she is not concerned with the 30' easement.



Commissioner Chilcott stated if Joseph Addition was developed, how the traffic would flow. Commissioner Thompson stated that area is developed and the particular road can not be a connector road because there is a house located there. Commissioner Chilcott stated they just set up new road standards and 'now they are letting them fly out the window'. Commissioner Lund stated they anticipated some issues to arise. She would like to see an RSI developed first, and then make a decision. Commissioner Thompson stated he does not want to negatively impact the other owners. Glen Wise's letter stated he will include his 2-lots into the expense of paving All View Way. He stated it does not make sense to require Mr. Phillips to pave the remaining portion of the road for the development of one lot. Mr. Phillips wants to improve this road into a 20' gravel surface which is a significant improvement. Commissioner Lund noted the Corvallis Fire Chief has no problem with this 20' wide improvement.

The Board then reviewed the Subdivision Variance Review Criteria:

- 1) *The granting of the variance will not be substantially detrimental to the public health, safety or general welfare of injurious to other adjoining properties.* Commissioner Lund stated the fire department has access, the Board of Health wants dust abatement and the Road and Bridge Department does not want this variance granted. Commissioner Thompson agreed. Commissioner Chilcott stated with those comments being stated, they need to amend the findings of fact based on the letter from the Fire Department. Commissioner Thompson agreed. Commissioner Lund agreed.
- 2) *The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.* Commissioner Thompson stated he disagrees. Commissioner Lund stated the variance is unique. Commissioner Chilcott stated he disagrees.
- 3) *Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owners.* Commissioner Thompson stated this is difficult because there are no topography issues to limit this development but there are fences, and there would be somewhat of takings of other people's property. There was some discussion of the changes of the lots in the area over the past few years. Commissioner Lund noted in 1991 they did not require the 30' easement and therefore only a 30' easement was granted. Commissioner Thompson disagreed. Commissioner Lund stated maybe the 1991 agreement by the county does not make it the applicant's fault. Commissioner Chilcott stated he would disagree. Commissioner Lund felt it was a result of the previous owner.
- 4) *The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.* Commissioner Lund agreed. Commissioner Thompson stated there was no zoning there. Commissioner Chilcott stated without dust abatement he would have to agree and there are no mitigations for the dust.



Renee stated the Commissioners could conditionally provision the variance. Commissioner Chilcott stated in the current form he would disagree. Renee stated the Commissioners are reviewing this variance in the context of the lot being divided; therefore the Commissioners need to review the additional trips per day and the impact on the neighborhood. Commissioner Thompson stated he would disagree, unless they had some dust abatement. Commissioner Lund stated she would disagree as long as there was dust abatement applied during construction and one time after that.

- 5) *The variance will not cause a substantial increase in public costs.* There was discussion of the improvements past the intersection and whom those improvements benefit. Commissioner Thompson, Commissioner Lund and Commissioner Chilcott agreed.

The Board discussed the Planning Board's recommendation motion. Renee stated All View Lane serves all 16-lots. Commissioner Chilcott commented if there was future development of one lot, and that one lot facilitated a duplex or a 4-plex, then it would have a great deal of impact. He stated they need to consider and factor in how they restrict any future subdivision to single family residential. James stated the Commissioners could put a deed restriction on the subdivision approval, but a consideration would be how to review it and enforce it at a later time. James stated if the Commissioners approve the variance without the requirement of an RSID, then the Commissioners have no way to involve themselves in that maintenance issue. Pat stated they have the conveyance and it reads single-family residences only.

Commissioner Chilcott stated the discussion is in regard to limiting the future to one lot, and to single family residential, a road maintenance agreement or RSID.

Commissioner Thompson made a motion that the variance request from Section 5-4-5(a) & (e) of the Ravalli County Subdivision Regulations, which require All View Lane, an existing substandard private road, to meet County standards for a minor local road as outlined in Table 5-4-2 be approved with the conditions that road plans for the proposed extension of All View Lane are submitted with the subdivision application for a minimum 20-foot wide gravel road within a 30-foot wide public road be built to applicable standards without paving, with dust abatement, with the condition that there be no more than a 1-lot split (for a total of 2-lots for Lot 30-D).

James suggested discussion of the old regulations take place. He stated the old regulations under this particular section do not apply today, so this variance is meaningless. If the Board is to approve of this motion, then he would recommend the applicant submit a new variance from the current regulations and waive the fees. He also suggested this be 'prioritized this in the stack' of applications that Planning is dealing with. Renee stated the old regulations do not differ that much, so maybe it would be best to finish the approval giving the applicant the ability to see how it will go in the future.

Commissioner Thompson asked if the motion should reflect the change to the applicable standards at this time. Commissioner Chilcott stated it would seem reasonable to grant the variance from the new regulations at this time. James advised the Board they do not have an application for that and it was not discussed at the Planning Board. There is also an issue of having a variance coming before the subdivision because of the new regulations. The subdivision will be under the new regulations, and the variance, if approved would not be a part of that.

Commissioner Thompson noted this issue has caused untold problems for staff and applicants. He stated they are looking at the variance under present criteria, but it was submitted under previous criteria and now they are already beginning to review another amendment. He stated the word 'confusing' does not even define what they are dealing with. He noted there was not that great of a change. Renee stated in this case it would have been expensive to put the application together and this variance would save the developer from that expense. James stated 'he needs to think long and hard about receiving a variance prior to the subdivision'.

James asked Pat if she knows when she would apply for the subdivision. Pat stated right away. James stated if this was resubmitted, it would be under the new regulations. Commissioner Chilcott asked if the applicant wanted a variance request that does not mean anything legally with the new regulations in effect, or resubmit or submit the application with a variance.

James stated the Commissioners will not be bound to any decision today. Commissioner Chilcott stated the county would waive the fees to the variance procedure and expedite it. It was also noted the subdivision application needs to be submitted and the checklist needs to be found sufficient before Senate Bill 116 comes into effect on October 1<sup>st</sup>. This is when the regulations are amended again.

James suggested the applicant withdraw and resubmit the variance under new regulations, and then the county will waive the fee. Commissioner Chilcott stated the applicant needs to submit the application for subdivision on a timely basis.

Commissioner Thompson asked as a matter of policy, when the regulations change and a variance is in the works, should the county contact the applicant to inform them of the changes and have them submit the information that is applicable so everyone's time is not wasted like this in the future. James stated that is a good idea, and it could be done at the time of sufficiency review.

Pat and Merl Baker stated they would withdraw the variance request for the applicant (Phillips).

No second, the motion died.

Commissioner Lund made a motion to waive the fee for The Phillips' from the new regulations and expedite the applications through the process. Commissioner Thompson seconded. All voted "aye".

The meeting was adjourned.

The Board made a site visit to the Grenell Subdivision during the afternoon hours.